

SEC. 6043. EMERGENCY ROOM COPAYMENTS FOR NON-EMERGENCY CARE.

(a) In General- Section 1916A of the Social Security Act, as inserted by section 6041 and as amended by section 6042, is further amended by adding at the end the following new subsection:

` (e) State Option for Permitting Hospitals To Impose Cost Sharing for Non-Emergency Care Furnished in an Emergency Department-

` (1) IN GENERAL- Notwithstanding section 1916 and section 1902(a)(1) or the previous provisions of this section, but subject to the limitations of paragraph (2), a State may, by amendment to its State plan under this title, permit a hospital to impose cost sharing for non-emergency services furnished to an individual (within one or more groups of individuals specified by the State) in the hospital emergency department under this subsection if the following conditions are met:

` (A) ACCESS TO NON-EMERGENCY ROOM PROVIDER- The individual has actually available and accessible (as such terms are applied by the Secretary under section 1916(b)(3)) an alternate non-emergency services provider with respect to such services.

` (B) NOTICE- The hospital must inform the beneficiary after receiving an appropriate medical screening examination under section 1867 and after a determination has been made that the individual does not have an emergency medical condition, but before providing the non-emergency services, of the following:

` (i) The hospital may require the payment of the State specified cost sharing before the service can be provided.

` (ii) The name and location of an alternate non-emergency services provider (described in subparagraph (A)) that is actually available and accessible (as described in such subparagraph).

` (iii) The fact that such alternate provider can provide the services without the imposition of cost sharing described in clause (i).

` (iv) The hospital provides a referral to coordinate scheduling of this treatment.

Nothing in this subsection shall be construed as preventing a State from applying (or waiving) cost

sharing otherwise permissible under this section to services described in clause (iii).

` (2) LIMITATIONS-

` (A) FOR POOREST BENEFICIARIES- In the case of an individual described in subsection (b)(1), the cost sharing imposed under this subsection may not exceed twice the amount determined to be nominal under section 1916, subject to the percent of income limitation otherwise applicable under subsection (b)(1).

` (B) APPLICATION TO EXEMPT POPULATIONS- In the case of an individual who is otherwise not subject to cost sharing under subsection (b)(3), a State may impose cost sharing under paragraph (1) for care in an amount that does not exceed a nominal amount (as otherwise determined under section 1916) so long as no cost sharing is imposed to receive such care through an outpatient department or other alternative health care provider in the geographic area of the hospital emergency department involved.

` (C) CONTINUED APPLICATION OF AGGREGATE CAP; RELATION TO OTHER COST SHARING- In addition to the limitations imposed under subparagraphs (A) and (B), any cost sharing under paragraph (1) is subject to the aggregate cap on cost sharing applied under paragraph (1) or (2) of subsection (b), as the case may be. Cost sharing imposed for services under this subsection shall be instead of any cost sharing that may be imposed for such services under subsection (a).

` (3) CONSTRUCTION- Nothing in this section shall be construed--

` (A) to limit a hospital's obligations with respect to screening and stabilizing treatment of an emergency medical condition under section 1867; or

` (B) to modify any obligations under either State or Federal standards relating to the application of a prudent-layperson standard with respect to payment or coverage of emergency services by any managed care organization.

` (4) DEFINITIONS- For purposes of this subsection:

` (A) NON-EMERGENCY SERVICES- The term `non-emergency services' means any care or services furnished in an emergency department of a hospital that the physician determines do not constitute an appropriate medical screening examination or stabilizing examination and treatment required to be provided by the hospital under section 1867.

` (B) ALTERNATE NON-EMERGENCY SERVICES PROVIDER- The term `alternative non-emergency services provider' means, with respect to non-emergency services for the

diagnosis or treatment of a condition, a health care provider, such as a physician's office, health care clinic, community health center, hospital outpatient department, or similar health care provider, that can provide clinically appropriate services for the diagnosis or treatment of a condition contemporaneously with the provision of the non-emergency services that would be provided in an emergency department of a hospital for the diagnosis or treatment of a condition, and that is participating in the program under this title.'

(b) Grant Funds for Establishment of Alternate Non-Emergency Services Providers- Section 1903 of the Social Security Act (42 U.S.C. 1396b), as amended by section 6037(a)(2), is amended by adding at the end the following new subsection:

` (y) Payments for Establishment of Alternate Non-Emergency Services Providers-

` (1) PAYMENTS- In addition to the payments otherwise provided under subsection (a), subject to paragraph (2), the Secretary shall provide for payments to States under such subsection for the establishment of alternate non-emergency service providers (as defined in section 1916A(e)(5)(B)), or networks of such providers.

` (2) LIMITATION- The total amount of payments under this subsection shall not exceed \$50,000,000 during the 4-year period beginning with 2006. This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Secretary to provide for the payment of amounts provided under this subsection.

` (3) PREFERENCE- In providing for payments to States under this subsection, the Secretary shall provide preference to States that establish, or provide for, alternate non-emergency services providers or networks of such providers that--

` (A) serve rural or underserved areas where beneficiaries under this title may not have regular access to providers of primary care services; or

` (B) are in partnership with local community hospitals.

` (4) FORM AND MANNER OF PAYMENT- Payment to a State under this subsection shall be made only upon the filing of such application in such form and in such manner as the Secretary shall specify. Payment to a State under this subsection shall be made in the same manner as other payments under section 1903(a).'

(c) Effective Date- The amendments made by this section shall apply to non-emergency services furnished on or after January 1, 2007.